

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

THOMSON REUTERS ENTERPRISE)
CENTRE GMBH and WEST PUBLISHING)
CORPORATION,)

Plaintiffs/Counterdefendants,)

v.)

ROSS INTELLIGENCE INC.,)

Defendant/Counterclaimant.)

C.A. No. 20-613-SB

JURY TRIAL DEMANDED

PUBLIC VERSION

**DECLARATION OF BARBARA FREDERIKSEN-CROSS IN SUPPORT OF
DEFENDANT/COUNTERCLAIMANT ROSS INTELLIGENCE INC.'S MOTION FOR
SUMMARY JUDGMENT ON ITS AFFIRMATIVE DEFENSE OF FAIR USE AND ON
PLAINTIFFS' CLAIMS FOR COPYRIGHT INFRINGEMENT**

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ROSS Intelligence, Inc.*

Dated: October 1, 2024

Public Version Dated: October 9, 2024

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I, Barbara Frederiksen-Cross, declare as follows:

1. I submit this Declaration in support of Defendant/Counterclaimant ROSS Intelligence Inc.’s (“ROSS”) Motions for Summary Judgment on Its Affirmative Defense of Fair Use and on Copyright Infringement. I have personal knowledge of the facts set forth below and, if called to testify, I could and would testify competently to the below.

2. I am the Director of Litigation Services for JurisLogic, LLC (“JurisLogic”). JurisLogic is an Oregon corporation that provides consulting services to computer hardware and software manufacturers and computer-related technical assistance to the legal profession in the United States, Canada, Japan, China, Europe, and the UAE. JurisLogic specializes in providing consulting services to corporations and attorneys on intellectual property matters (such as copyright and patent infringement matters, and misappropriation of trade secrets) and performing assessments of computer software, large scale computer data productions, software-controlled devices, and software development projects

3. I have been retained on behalf of Defendant ROSS Intelligence, Inc. (“ROSS”) in the above-captioned matter. Defendant’s counsel requested that I provide an independent algorithmic analysis of the relationship between the legal questions contained in the ROSS Bulk Memos, West headnotes, and judicial opinions.

4. My curriculum vitae, reflecting my qualifications as an expert witness, which includes a list of publications authored or co-authored by me within the last ten years and the cases in which I have testified by deposition or at trial in the last 5 years is attached as **Exhibit A**.

5. My opinions and the facts and data that support them are set forth fully in my Opening Expert Report dated August 1, 2022, attached as **Exhibit B**, Rebuttal Report dated September 6, 2022, attached as **Exhibit C**, and Sur-rebuttal Report dated October 10, 2022, attached as **Exhibit D**.

6. In arriving at my observations, conclusions, and opinions, I relied on the materials referenced in my reports and on the materials in the exhibits to my expert reports.

I. My Opening Report Methodologies

7. In my opening report, I compared the Bulk Memo questions to West headnotes, the West headnotes to the text of judicial opinions, and the Bulk Memo questions to passages of text extracted from the judicial opinions. *See Ex. B*, Opening Report ¶ 16. I was not embarking on proving misappropriation or the lack thereof. My role as an expert in this case was to assist the jury in its determination. I did not conduct a ‘lay observer’ test. I did not filter out the protectable elements of the headnotes.

8. At the time of my analysis reflected in my Opening Report dated August 1, 2022, Plaintiffs had not identified the Westlaw content they claimed was infringed. Therefore, to conduct my analysis, I examined all of the judicial opinions that contained West headnotes that were

produced up to the date of my Opening Report. [REDACTED]

[REDACTED] After Plaintiffs were ordered to disclose what was infringed, I narrowed my analysis to focus on the specific content at issue, which Plaintiffs identified through their expert, Dr. Jonathan Krein.

9. [REDACTED]

[REDACTED] See Ex. B, Opening Report ¶ 109. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

Id. ¶ 130.

15. [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

II. My Rebuttal Report & Criticism of Krein's Methodology

19. In my rebuttal report, using the data Plaintiffs' expert Jonathan L. Krein uses to reach his opinions in his opening report, I ran my own analysis of that data and opined [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶¶ 9-14.

20. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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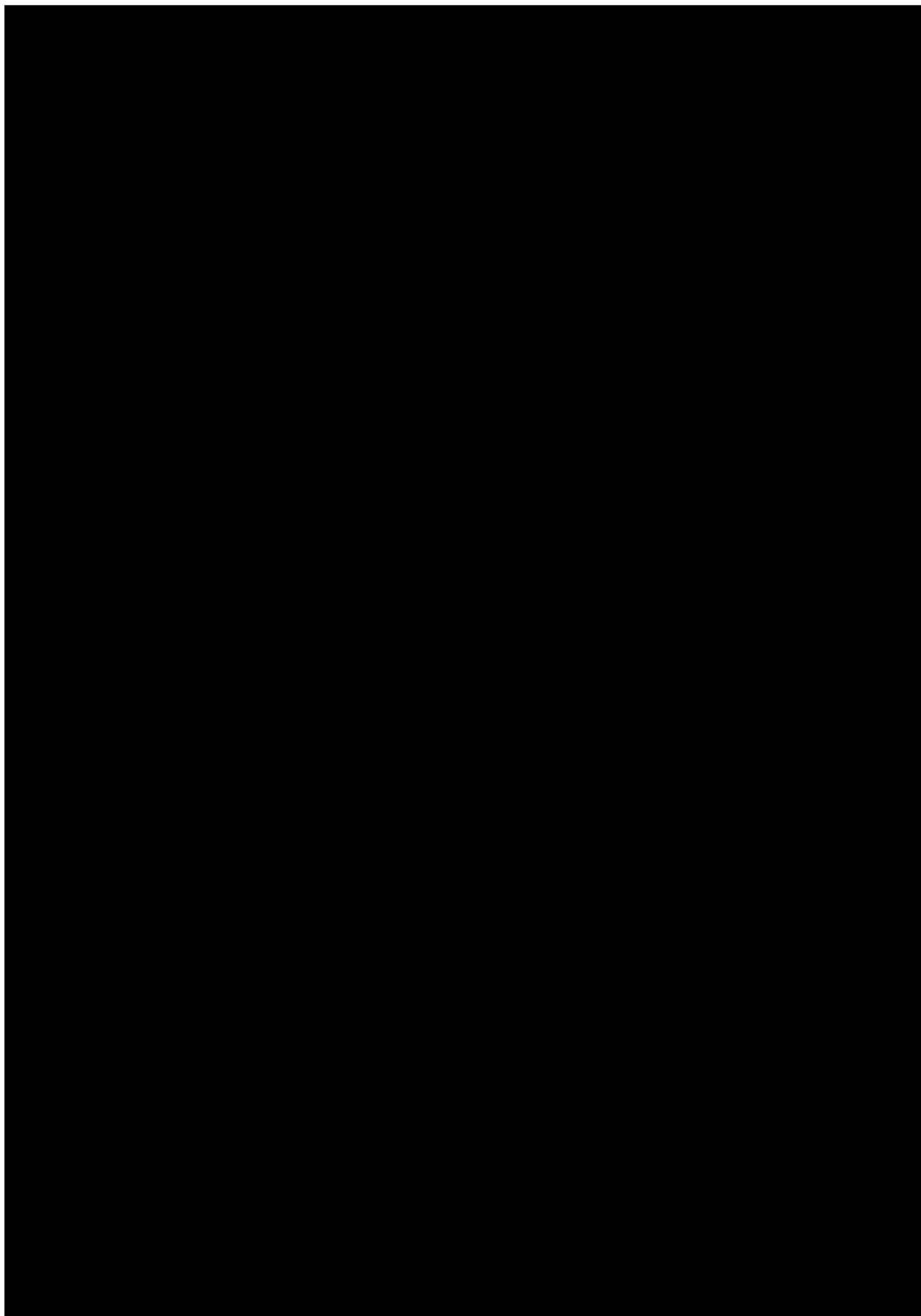
[REDACTED]

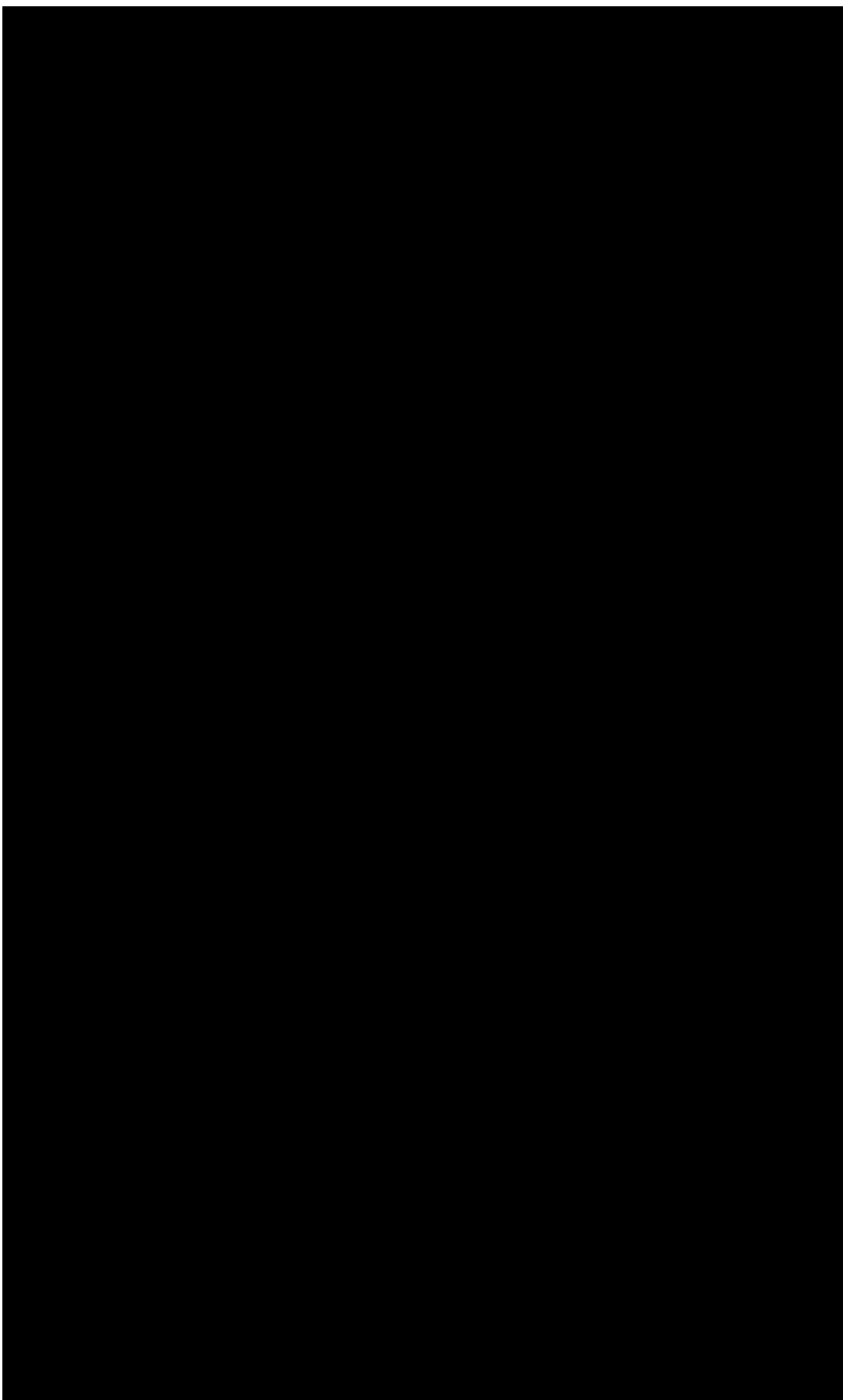
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





29.

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

III. My Comparison of Questions to Judicial Opinion Text

34. In Krein's rebuttal report, he criticizes the methodology from my opening report.

Specifically in ¶¶ 101-105, [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

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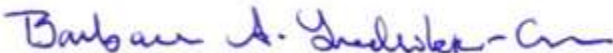
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Hubbard, Oregon on September 30, 2024.



Barbara Frederiksen-Cross